



January 24, 2014

SENATE BILL No. 340

DIGEST OF SB 340 (Updated January 23, 2014 12:31 pm - DI 101)

Citations Affected: IC 8-1.

Synopsis: Demand side management programs. Requires a public utility to allow an industrial customer to opt out of participating in an energy efficiency program implemented by the public utility in response to an order of the utility regulatory commission (commission) concerning demand side management (DSM) programs. Provides that the commission may adopt rules or guidelines to assist public utilities and industrial customers in complying with the requirement. Requires the commission to provide a status report on energy efficiency programs implemented under DSM orders to the regulatory flexibility committee and the legislative council by August 15, 2014.

Effective: July 1, 2014.

Merritt

January 14, 2014, read first time and referred to Committee on Utilities.
January 24, 2014, amended, reported favorably — Do Pass.

SB 340—LS 6631/DI 103



January 24, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 340

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-8.5-9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 9. (a) For purposes of this section, "DSM order"**
4 **refers to an order of the commission that establishes or approves:**

- 5 (1) energy efficiency targets or goals for public utilities; or
6 (2) an energy efficiency program sponsored by a public utility.

7 The term includes the December 29, 2009, order of the commission
8 concerning demand side management programs.

9 (b) For purposes of this section, "energy efficiency program"
10 means a program that is:

- 11 (1) sponsored by a public utility or a third party
12 administrator; and
13 (2) designed to implement energy efficiency improvements (as
14 defined in 170 IAC 4-8-1(j)) for customers.

15 The term does not include a program designed primarily to reduce
16 demand.

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(c) For purposes of this section, "industrial customer" means a person that receives services constituting more than one (1) megawatt of electric capacity from a public utility.

(d) An industrial customer may opt out of participating in an energy efficiency program that is established by a public utility in response to a DSM order by providing notice to the public utility. Except as provided in subsection (e), a public utility may not charge an industrial customer that opts out rates that include energy efficiency program costs that accrue or are incurred after the date on which the industrial customer opts out. For purposes of this subsection, costs for an energy efficiency program include:

- (1) program costs;
- (2) lost revenues; and
- (3) incentives approved by the commission.

However, an industrial customer remains liable for rates that include energy efficiency program costs that accrued or were incurred before the date on which the industrial customer opts out, regardless of the date on which the rates are actually assessed against the industrial customer.

(e) An industrial customer that opts out of participating in an energy efficiency program may subsequently opt to participate in the same or a different energy efficiency program. The industrial customer must participate in the subsequent energy efficiency program for at least three (3) years after the date on which the industrial customer opts in. If the industrial customer terminates participation in the subsequent energy efficiency program during the three (3) year period described in this subsection, the industrial customer shall continue paying energy efficiency program rates, including costs described in subsection (d), for the remainder of the three (3) year period.

(f) Energy efficiency targets or goals that are approved or mandated by the commission in a DSM order must be calculated to exclude all load from an industrial customer that opts out under subsection (d).

(g) The commission may adopt:

- (1) rules under IC 4-22-2; or
- (2) guidelines;

to assist public utilities and industrial customers in complying with this section.

(h) Not later than August 15, 2014, the commission shall prepare a status report on all energy efficiency programs implemented under the DSM order issued by the commission on December 29,



1 **2009. The commission shall provide the status report in an**
2 **electronic format under IC 5-14-6 to the regulatory flexibility**
3 **committee and legislative council. The status report must consider**
4 **the following:**

5 **(1) The status and effectiveness of all energy efficiency**
6 **programs, including whether efficiency gains attributable to**
7 **a federal conservation program are being measured as part**
8 **of an energy efficiency program implemented under the 2009**
9 **DSM order.**

10 **(2) The degree to which energy efficiency program costs are**
11 **shifted among customer classes.**

12 **(3) Program costs to date.**

13 **(4) Program costs projected to be incurred in complying with**
14 **all DSM orders.**

15 **(5) The actual impact of program costs on all customer rates**
16 **and the projected impact of program costs on all customer**
17 **rates upon full implementation of the 2009 DSM order.**

18 **(6) Current and projected costs and benefits of current and**
19 **anticipated energy efficiency programs, including costs and**
20 **benefits associated with third party administrators and**
21 **evaluation, measurement, and verification contractors.**

22 **(7) The effectiveness of energy efficiency programs in**
23 **reducing energy consumption and demand.**

24 **(8) Any additional information or recommendations the**
25 **commission determines is necessary.**

26 **This subsection expires December 31, 2014.**



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 340, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 340 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 7, Nays 3.

